

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7082

BILL NUMBER: SB 559

NOTE PREPARED: Jan 29, 2015

BILL AMENDED:

SUBJECT: Crimes of Violence.

FIRST AUTHOR: Sen. Young R Michael

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

**FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- A. *Unlawful Possession of a Firearm* – It adds unlawful possession of a firearm by a serious violent felon to the definition of "crimes of violence".
- B. *Consecutive Sentences* – It establishes new caps for consecutive sentences that result from a single episode of criminal conduct.
- C. *New Definition* – It defines "emergency medical services provider".
- D. *20-Year Sentencing Enhancement for Certain Firearm Offenses* – It establishes a 20-year sentencing enhancement for a person who points or discharges a firearm at a law enforcement officer.
- E. It makes technical corrections.

Effective Date: July 1, 2015.

Explanation of State Expenditures: *20-Year Sentencing Enhancement for Certain Firearm Offenses* – The bill permits a prosecuting attorney to petition for a sentencing enhancement if a person is convicted of knowingly or intentionally pointing a firearm or discharging a firearm at a law enforcement officer while committing another felony. This enhancement would not apply to a person who is convicted of pointing or firing at a law enforcement officer if, during that episode, the person does not commit another felony. The number of offenders who might be eligible for this enhancement is not known.

Unlawful Possession of a Firearm by a Serious Violent Felon – Under current law, for purposes of imposing consecutive sentences, unlawful possession of a firearm is not included in the list of violent crimes under IC 35-50-1-2. Adding this offense to the list of crimes of violence would permit a sentencing court to impose

a consecutive sentence that would exceed the caps on consecutive sentences that are in current law.

Unlawful possession of a firearm by a serious violent offender is a Level 4 felony. The current cap on the sentence that could be imposed is 9 years if unlawful possession is the most serious felony in an episode of criminal conduct not involving any other crimes of violence. As proposed, the new cap would be 15 years. (See table below).

Consecutive Sentences – Increasing the caps for consecutive sentences could increase the number of offenders who would be housed in Department of Correction (DOC) facilities in future years. However, since the new maximum amount is not mandatory, LSA is not able to determine how much this change could affect the future population.

When a person is convicted of an episode of crimes, a court can sentence that person to serve each sentence for each crime either concurrently (at the same time) or consecutively (one at a time).

The court has the discretion to impose consecutive terms unless the person commits another crime while:

- On probation, parole or while still in prison or while on pretrial release, or
- On pretrial release for another crime or
- If the person uses a firearm in the commission of a crime.

If the person is convicted of a nonviolent crime, the total of the consecutive terms of imprisonment cannot exceed the advisory sentence for a felony which is one class higher than the most serious of the felonies that the person has been convicted.

As proposed, the total of the consecutive terms of imprisonment would be changed to the following.

Caps In Years on Consecutive Sentences by Most Serious of Felony Levels For Which the Person is Convicted for a Nonviolent Crime						
<i>Felony Level</i>	<i>Level 1</i>	<i>Level 2</i>	<i>Level 3</i>	<i>Level 4</i>	<i>Level 5</i>	<i>Level 6</i>
Current Cap	55 years	30 years	17.5 years	9 years	6 years	3 years
Proposed Cap	42 years	32 years	20 years	15 years	7 years	4 years

Since a court may sentence a person to an amount that is less than the maximum allowed under this bill, LSA cannot determine how this might affect DOC's offender population in the future.

Historical Data on Offenders with Consecutive Sentences – LSA examined DOC commitments between 2008 and 2013 to identify offenders who were serving consecutive sentences for nonviolent crimes.

Offenders Committed to DOC for Nonviolent Crimes By Calendar Year and Serving Consecutive Sentences						
<i>Felony Class</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>
Class A	4	9	4	2	3	4
Class B	48	45	49	36	40	42
Class C	93	114	115	103	62	82
Class D	200	213	210	213	186	205
Grand Total	345	381	378	354	291	333

The average expenditure to house an adult offender was \$19,497 in FY 2014. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,210 annually, or \$8.77 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$89,956 in FY 2014.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of Correction.

Local Agencies Affected:

Information Sources: DOC offender information system.

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